

**[COMMITTEE PRINT]**

APRIL 26, 2004

108TH CONGRESS  
2D SESSION**H. R.** \_\_\_\_\_

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

M\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Satellite Home Viewer Extension and Reauthorization  
4 Act of 2004”.

5 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

**TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS**

Sec. 201. Extension of retransmission consent exemption.

Sec. 202. Cable/satellite comparability.

Sec. 203. Carriage of local stations on a single dish.

Sec. 204. Replacement of distant signals with local signals.

Sec. 205. Additional notices to subscribers, networks, and stations concerning  
signal carriage.

Sec. 206. Reciprocal bargaining obligations.

Sec. 207. Unserved digital customers.

Sec. 208. Reduction of required tests.

6 **TITLE II—FEDERAL COMMU-**  
7 **NICATIONS COMMISSION OP-**  
8 **ERATIONS**

9 **SEC. 201. EXTENSION OF RETRANSMISSION CONSENT EX-**  
10 **EMPTION.**

11 Section 325(b)(2)(C) of the Communications Act of  
12 1934 (47 U.S.C. 325(b)(2)(C)) is amended by striking  
13 “December 31, 2004” and inserting “December 31,  
14 2009”.

15 **SEC. 202. CABLE/SATELLITE COMPARABILITY.**

16 (a) AMENDMENT.—Part I of title III of the Commu-  
17 nications Act of 1934 is amended by inserting after sec-  
18 tion 339 (47 U.S.C. 339) the following new section:

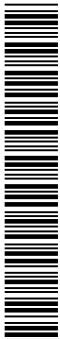


1   **“SEC. 340. ADDITIONAL LOCAL SIGNALS PERMITTED TO BE**  
2                   **CARRIED.**

3           “(a) **ADDITIONAL STATIONS ELIGIBLE.**—In addition  
4 to the signals that subscribers may receive under section  
5 338, satellite carriers are also authorized to retransmit to  
6 subscribers located in a community the signals that a cable  
7 system in the same community is authorized to retransmit  
8 pursuant to section 111 of title 17, United States Code,  
9 if such station is, on the date of enactment of the Satellite  
10 Home Viewer Extension and Reauthorization Act of 2004,  
11 treated as significantly viewed in such community in ac-  
12 cordance with the rules, regulations, and authorizations  
13 of the Commission.

14          “(b) **PETITIONS FROM SATELLITE CARRIERS.**—The  
15 Commission shall permit a satellite carrier to petition for  
16 decisions and orders by which stations and communities  
17 may be added to or removed from those that are eligible  
18 for retransmission on the date of enactment of the Sat-  
19 ellite Home Viewer Extension and Reauthorization Act of  
20 2004 under subsection (a) by reason of meeting or failing  
21 to meet the criteria in such subsection on a later date.

22          “(c) **NO EFFECT ON CARRIAGE OBLIGATIONS.**—A  
23 signal that is eligible to be carried under this section is  
24 not required to be carried pursuant to section 338, and  
25 the right of a station licensee to have the signal of such



1 station carried under section 338 is not affected by the  
2 eligibility of such station to be carried under this section.

3 “(d) RETRANSMISSION CONSENT NOT AFFECTED.—

4 The right of a station licensee to require retransmission  
5 consent under section 325(b)(1) is not affected by the eli-  
6 gibility of such station to be carried under this section.

7 “(e) RULEMAKING.—

8 “(1) REQUIREMENTS.—The Commission  
9 shall—

10 “(A) commence a rulemaking proceeding  
11 to implement this section by publication of a  
12 notice of proposed rulemaking within 180 days  
13 after the date of enactment of the Satellite  
14 Home Viewer Extension and Reauthorization  
15 Act of 2004;

16 “(B) include in such notice a list of the  
17 stations or communities eligible for carriage  
18 under subsection (a); and

19 “(C) adopt rules pursuant to such rule-  
20 making within one year after such date of en-  
21 actment.

22 “(2) INTERIM ELIGIBILITY.—Stations and com-  
23 munities listed as eligible for carriage in the notice  
24 of proposed rulemaking issued by the Commission  
25 under paragraph (1) may be treated as eligible for



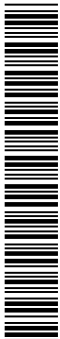
1 carriage under this section on an interim basis pend-  
2 ing adoption of such rules and publication of the list  
3 of eligible stations and communities under such  
4 rules.”.

5 (b) CORRESPONDING CHANGE IN REGULATIONS.—

6 (1) COMMUNITY-BY-COMMUNITY ELECTIONS.—

7 The Federal Communications Commission shall, no  
8 later than April 30, 2005, revise section 76.66 of its  
9 regulations (47 CFR 76.66), concerning satellite  
10 broadcast signal carriage, to permit a television  
11 broadcast station that is located in a local market  
12 into which a satellite carrier retransmits a television  
13 broadcast station on the basis of a statutory license  
14 under section 122 of title 17, United States Code,  
15 to elect, with respect to such satellite carrier, be-  
16 tween retransmission consent pursuant to section  
17 325 of of the Communications Act of 1934 (47  
18 U.S.C. 325) and mandatory carriage pursuant to  
19 section 338 of such Act (47 U.S.C. 338) separately  
20 for each community within its local market.

21 (2) SINGLE NEGOTIATIONS.—In revising its  
22 regulations as required by subparagraph (A), the  
23 Commission shall provide that any such station shall  
24 conduct a single negotiation for the entire portion of



1 its local market for which retransmission consent is  
2 elected.

3 **SEC. 203. CARRIAGE OF LOCAL STATIONS ON A SINGLE**  
4 **DISH.**

5 Section 338 of the Communications Act of 1934 (47  
6 U.S.C. 338(d) is amended—

7 (1) by redesignating subsections (g) and (h) as  
8 subsections (i) and (j), respectively;

9 (2) by inserting after subsection (f) the fol-  
10 lowing new subsection:

11 “(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE  
12 DISH.—

13 “(1) SINGLE DISH.—Each satellite carrier that  
14 carries the signals of local television broadcast sta-  
15 tions in a local market shall retransmit the signal of  
16 all local television broadcast stations in such market  
17 to subscribers by means of a single reception an-  
18 tenna and associated equipment.

19 “(2) EXCEPTION.—Notwithstanding paragraph  
20 (1), if the carrier carries signals in the digital tele-  
21 vision service, the carrier may retransmit the digital  
22 television service signals in such market to sub-  
23 scribers by means of a single reception antenna and  
24 associated equipment that is separate from the sin-  
25 gle reception antenna and associated equipment used



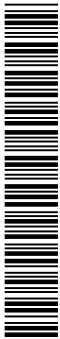
1 for signals that are not in the digital television serv-  
2 ice.

3 “(3) EFFECTIVE DATE.—The requirements of  
4 paragraphs (1) and (2) of this subsection shall apply  
5 on and after one year after the date of enactment  
6 of the Satellite Home Viewer Extension and Reau-  
7 thorization Act of 2004.

8 “(4) NOTICE OF DISRUPTIONS.—A carrier that  
9 is providing signals of a local television broadcast  
10 station in a local market under this section on the  
11 date of enactment of the Satellite Home Viewer Ex-  
12 tension and Reauthorization Act of 2004 shall, not  
13 later than 270 days after such date of enactment,  
14 provide to the licensees for such stations and the  
15 carrier’s subscribers in such local market a notice  
16 that displays prominently and conspicuously a clear  
17 statement of—

18 “(A) any reallocation of signals between  
19 different reception antennas and associated  
20 equipment that the carrier intends to make in  
21 order to comply with the requirements of this  
22 subsection;

23 “(B) the need for subscribers to obtain an  
24 additional reception antenna and associated  
25 equipment to receive such signals; and



1           “(C) any cessation of carriage or other ma-  
2           terial change in the carriage of such signals as  
3           a consequence of the requirements of this para-  
4           graph.

5           “(5) ENFORCEMENT.—Notwithstanding any  
6           other provision of this section, the Commission may  
7           enforce this section and any regulation thereunder in  
8           accordance with titles IV and V of this Act.”.

9   **SEC. 204. REPLACEMENT OF DISTANT SIGNALS WITH**  
10           **LOCAL SIGNALS.**

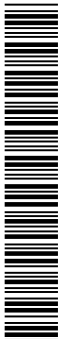
11           Section 339(a) of the Communications Act of 1934  
12           (47 U.S.C. 339(a)) is amended—

13           (1) by redesignating paragraph (2) as para-  
14           graph (3); and

15           (2) by inserting after paragraph (1) the fol-  
16           lowing new paragraph:

17           “(2) REPLACEMENT OF DISTANT SIGNALS WITH  
18           LOCAL SIGNALS.—Notwithstanding any other provi-  
19           sion of paragraph (1), the following rules shall apply  
20           after the date of enactment of the Satellite Home  
21           Viewer Extension and Reauthorization Act of 2004:

22           “(A) RULES FOR GRANDFATHERED SUB-  
23           SCRIBERS.—In the case of a subscriber of a sat-  
24           ellite carrier who is eligible to receive the signal  
25           of a network station by reason of section 119(e)





1 of title 17, United States Code (in this subpara-  
2 graph referred to as a ‘distant signal’), the fol-  
3 lowing shall apply:

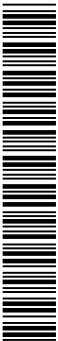
4 “(i) In a case in which the signal of  
5 a local network station affiliated with the  
6 same network pursuant to the statutory li-  
7 cense under section 122 is made available  
8 by that satellite carrier to the subscriber  
9 on the date of the enactment of the Sat-  
10 ellite Home Viewer Extension and Reau-  
11 thorization Act of 2004, the carrier may  
12 only provide the secondary transmissions  
13 of the distant signal of such network sta-  
14 tion to that subscriber—

15 “(I) if, on such date of enact-  
16 ment, the subscriber is also receiving  
17 such local signal; or

18 “(II)(aa) if, on such date of en-  
19 actment, the subscriber is not receiv-  
20 ing such local signal; but

21 “(bb) only until such time as the  
22 subscriber elects to receive such local  
23 signal.

24 “(ii) In a case in which the signal of  
25 a local network station affiliated with the

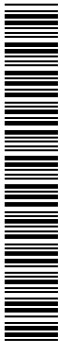


1 same network pursuant to the statutory li-  
2 cense under section 122 is not made avail-  
3 able by that satellite carrier to the sub-  
4 scribe on the date of the enactment of the  
5 Satellite Home Viewer Extension and Re-  
6 authorization Act of 2004, the carrier may  
7 only provide the secondary transmissions  
8 of the distant signal of such network sta-  
9 tion to that subscriber—

10 “(I) if, within 60 days after re-  
11 ceiving the notice of the satellite car-  
12 rier under section 338(h), of the avail-  
13 ability of such local signal, the sub-  
14 scribe elects to retain the distant sig-  
15 nal; but

16 “(II) only until such time as the  
17 subscriber elects to receive such local  
18 signal.

19 “(iii) Notwithstanding clauses (i) and  
20 (ii), the carrier may not retransmit the dis-  
21 tant signal to any subscriber who is eligible  
22 to receive the signal of a network station  
23 by reason of section 119(e) of title 17,  
24 United States Code, unless such carrier,  
25 within 60 days after the date of the enact-



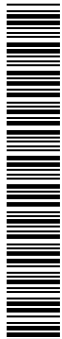
1                   ment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that network the list and statement required by section 338(h)(2).

5                   “(B) RULES FOR OTHER SUBSCRIBERS.—

6                   In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under the statutory license under section 119(a)(2) of title 17, United States Code (in this subparagraph referred to as a ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the following shall apply:

13                   “(i) In a case in which the signal of a local network station affiliated with the same network pursuant to the statutory license under section 122 is made available by that satellite carrier to the subscriber on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may only provide the secondary transmissions of the distant signal of such network station to that subscriber—

24                   “(I)(aa) if, on such date of enactment, the subscriber is receiving such



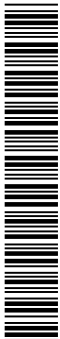
1 distant signal and is also receiving  
2 such local signal, and

3 “(bb) the subscriber’s satellite  
4 carrier, within 60 days after the date  
5 of the enactment of the Satellite  
6 Home Viewer Extension and Reau-  
7 thorization Act of 2004, submits to  
8 that network the list and statement  
9 required by section 338(h)(2); or

10 “(II)(aa) if, on such date of en-  
11 actment, the subscriber is receiving  
12 such distant signal and is not receiv-  
13 ing such local signal; but

14 “(bb) only until such time as the  
15 subscriber elects to receive such local  
16 signal.

17 “(ii) In a case in which the signal of  
18 a local network station affiliated with the  
19 same network pursuant to the statutory li-  
20 cense under section 122 is not made avail-  
21 able by that satellite carrier to a subscriber  
22 on the date of the enactment of the Sat-  
23 ellite Home Viewer Extension and Reau-  
24 thorization Act of 2004, the carrier may  
25 only provide the secondary transmissions



1 of the distant signal of such network sta-  
2 tion to that subscriber—

3 “(I) who is subscriber of that  
4 satellite carrier on such date of enact-  
5 ment, or

6 “(II) who becomes a subscriber  
7 of that satellite carrier after such date  
8 but before the local signal is made  
9 available by the carrier,  
10 but only until such time as the subscriber  
11 elects to receive the local signal from that  
12 satellite carrier.

13 “(C) FUTURE APPLICABILITY.—A satellite  
14 carrier may not provide a distant signal (within  
15 the meaning of subparagraph (A) or (B)) to  
16 any person to whom the signal of a local net-  
17 work station pursuant to the statutory license  
18 under section 122 of title 17, United States  
19 Code, is available before the person becomes a  
20 subscriber.

21 “(D) NULLIFICATION OF EXISTING WAIV-  
22 ERS.—In the case of any subscriber to whom  
23 subparagraph (B)(i)(II) or (B)(ii) applies, at  
24 such time as the subscriber elects to receive the  
25 local signal of a network station, any waiver by



1 that network station under section 339(c)(2)  
2 shall cease to be effective with respect to that  
3 subscriber.

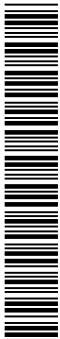
4 “(E) OTHER PROVISIONS NOT AF-  
5 FECTED.—This paragraph shall not affect the  
6 eligibility of a subscriber to receive secondary  
7 transmissions under section 119(a)(2)(D) of  
8 title 17, United States Code, or as an unserved  
9 household included under section 119(a)(11) of  
10 such title. ”.

11 **SEC. 205. ADDITIONAL NOTICES TO SUBSCRIBERS, NET-**  
12 **WORKS, AND STATIONS CONCERNING SIGNAL**  
13 **CARRIAGE.**

14 Section 338 of the Communications Act of 1934 (47  
15 U.S.C. 338) is further amended by inserting after sub-  
16 section (g) (as added by section 203) the following new  
17 subsection:

18 “(h) ADDITIONAL NOTICES TO SUBSCRIBERS, NET-  
19 WORKS, AND STATIONS CONCERNING SIGNAL CAR-  
20 RIAGE.—

21 “(1) NOTICES TO AND ELECTIONS BY SUB-  
22 SCRIBERS CONCERNING GRANDFATHERED SIG-  
23 NALS.—Any carrier that provides a distant signal of  
24 a network station to a subscriber pursuant to a stat-



1       utary license under section 119(a)(3)(A)(ii) of title  
2       17, United States Code, shall—

3               “(A) within 60 days after the local signal  
4               of a network station of the same network is  
5               available pursuant to a statutory license under  
6               section 122, send a notice to the subscriber—

7                       “(i) offering to substitute the local  
8                       network signal for the duplicating distant  
9                       network signal; and

10                      “(ii) informing the subscriber that, if  
11                      the subscriber fails to respond in 60 days,  
12                      the subscriber will lose the distant network  
13                      signal but will be permitted to subscribe to  
14                      the local network signal; and

15               “(B) if the subscriber—

16                      “(i) elects to substitute such local net-  
17                      work signal within such 60 days, switch  
18                      such subscriber to such local network sig-  
19                      nal; or

20                      “(ii) fails to respond within such 60  
21                      days, terminate the distant network signal.

22               “(2) NOTICES TO NETWORKS OF DISTANT SIG-  
23       NAL SUBSCRIBERS.—Within 60 days after the date  
24       of enactment of the Satellite Home Viewer Exten-  
25       sion and Reauthorization Act of 2004, each satellite



1 carrier that provides a distant signal of a network  
2 station to a subscriber pursuant to a statutory li-  
3 cense under section 119(a)(3)(A)(i) or (ii) or  
4 119(a)(3)(B)(i) of title 17, United States Code, shall  
5 submit to each network—

6 “(A) a list, aggregated by designated mar-  
7 ket area, identifying each subscriber provided  
8 such a signal by—

9 “(i) name;

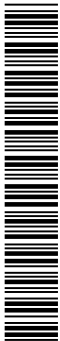
10 “(ii) address (street or RFD number,  
11 city, state, and zip code); and

12 “(iii) the distant network signal or  
13 signals received; and

14 “(B) a statement that, to the best of the  
15 carrier’s knowledge and belief after having  
16 made diligent and good faith inquiries, the sub-  
17 scriber is qualified under the existing law to re-  
18 ceive the distant network signal or signals pur-  
19 suant to a statutory license under section  
20 119(a)(3)(A)(i) or (ii) or 119(a)(3)(B)(i) of  
21 title 17, United States Code.

22 “(3) NOTICE TO STATION LICENSEES OF COM-  
23 MENCEMENT OF LOCAL-INTO-LOCAL SERVICE.—

24 “(A) NOTICE REQUIRED.—Within 180  
25 days after the date of enactment of the Satellite





1 Home Viewer Extension and Reauthorization  
2 Act of 2004, the Commission shall revise the  
3 regulations under this section relating to notice  
4 to broadcast station licensees to comply with  
5 the requirements of this paragraph.

6 “(B) CONTENTS OF COMMENCEMENT NO-  
7 TICE.—The notice required by such regulations  
8 shall inform each television broadcast station li-  
9 censee within any local market in which a sat-  
10 ellite carrier proposes to commence carriage of  
11 signals of stations from that market, not later  
12 than 60 days prior to the commencement of  
13 such carriage—

14 “(i) of the carrier’s intention to  
15 launch local-into-local service under this  
16 section in a local market, the identity of  
17 that local market, and the location of the  
18 carrier’s proposed local receive facility for  
19 that local market;

20 “(ii) of the right of such licensee to  
21 elect carriage under this section or grant  
22 retransmission consent under section  
23 325(b);



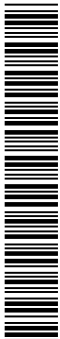
1 “(iii) that such licensee has 30 days  
2 from the date of the receipt of such notice  
3 to make such election; and

4 “(iv) that failure to make such elec-  
5 tion will result in the loss of the right to  
6 demand carriage under this section for the  
7 remainder of the 3-year cycle of retrans-  
8 mission consent agreements under section  
9 325.

10 “(C) TRANSMISSION OF NOTICES.—Such  
11 regulations shall require that each satellite car-  
12 rier shall transmit the notices required by such  
13 regulation via certified mail to the address for  
14 such television station licensee listed in the con-  
15 solidated database system maintained by the  
16 Commission.

17 “(4) NOTICES CONCERNING SIGNIFICANTLY  
18 VIEWED STATIONS.—Each satellite carrier that pro-  
19 poses to commence the retransmission of a station  
20 pursuant to section 340 in any local market shall—

21 “(A) not less than 60 days before com-  
22 mencing such retransmission, provide a written  
23 notice to any television broadcast station in  
24 such local market of a such proposal; and



1 “(B) designate on such carrier’s website all  
2 significantly viewed signals carried pursuant to  
3 section 340 and the communities in which the  
4 signals are carried. ”.

5 **SEC. 206. RECIPROCAL BARGAINING OBLIGATIONS.**

6 (a) AMENDMENTS.—Section 325(b)(3)(C) of the  
7 Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is  
8 amended—

9 (1) by striking “Within 45 days” and all that  
10 follows through “1999, the” and inserting “The”;

11 (2) by striking the second sentence;

12 (3) by striking “and” at the end of clause (i);

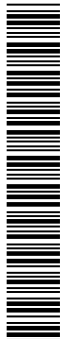
13 (4) in clause (ii)—

14 (A) by striking “January 1, 2006” and in-  
15 serting “January 1, 2010”

16 (B) by striking the period at the end and  
17 inserting “; and”; and

18 (5) by adding at the end the following new  
19 clauses:

20 “(iii) until January 1, 2010, prohibit  
21 a multichannel video programming dis-  
22 tributor from failing to negotiate in good  
23 faith for retransmission consent under this  
24 section, and it shall not be a failure to ne-  
25 gotiate in good faith if the distributor en-



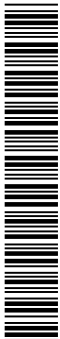
1           ters into retransmission consent agree-  
2           ments containing different terms and con-  
3           ditions, including price terms, with dif-  
4           ferent broadcast stations if such different  
5           terms and conditions are based on com-  
6           petitive marketplace considerations.”.

7           (b) DEADLINE.—The Federal Communications Com-  
8           mission shall prescribe regulations to implement the  
9           amendments made by subsection (a)(5) within 180 days  
10          after the date of enactment of this Act.

11   **SEC. 207. UNSERVED DIGITAL CUSTOMERS.**

12          (a) INQUIRY REQUIRED.—The Federal Communica-  
13          tions Commission shall initiate an inquiry to recommend  
14          the appropriate methodologies or models (or both) for de-  
15          termining which subscribers to satellite carriers are in lo-  
16          cations where the subscriber will be unable, on and after  
17          January 1, 2007, to receive broadcast digital television  
18          signals of sufficient intensity to be able to receive and dis-  
19          play digital television service using receiving terrestrial  
20          outdoor antennas of reasonable cost and ease of installa-  
21          tion.

22          (b) REPORT REQUIRED.—The Federal Communica-  
23          tions Commission shall submit a report on the results of  
24          the inquiry required by subsection (a) to the Committee  
25          on Energy and Commerce of the House of Representatives



1 and the Committee on Commerce, Science, and Transpor-  
2 tation of the Senate not later than December 31, 2005.

3 Such report shall include—

4 (1) a proposal concerning an appropriate digital  
5 signal strength standard;

6 (2) a proposal concerning a predictive model for  
7 determining which consumers receive a digital signal  
8 that meets or exceeds such digital signal strength  
9 standard;

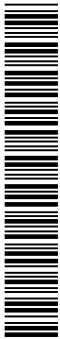
10 (3) an analysis of whether it is possible to iden-  
11 tify the areas of the country that will not, on and  
12 after January 1, 2007, be able to receive a digital  
13 television signal that meets or exceeds such digital  
14 signal strength standard; and

15 (4) if possible, an identification, on a county-by-  
16 county basis, of such areas for each television net-  
17 work.

18 **SEC. 208. REDUCTION OF REQUIRED TESTS.**

19 Section 339(c)(4) of the Communications Act of 1934  
20 (47 U.S.C. 339(c)(4) is amended by inserting after sub-  
21 paragraph (C) the following new subparagraph:

22 “(D) REDUCTION OF VERIFICATION BUR-  
23 DENS.—Within one year after the date of enact-  
24 ment of the Satellite Home Viewer Extension  
25 and Reauthorization Act of 2004, the Commis-



1           sion shall by rule exempt from the verification  
2           requirements of subparagraph (A) any request  
3           for a test made by a subscriber—

4                   “(i) who receives or is able to receive  
5                   the retransmission of local broadcast sta-  
6                   tions under section 122 of title 17, United  
7                   States Code; or

8                   “(ii) for whom the predictive model  
9                   required by paragraph (3) predicts a signal  
10                  intensity that exceeds the signal intensity  
11                  standard in effect under section  
12                  119(d)(10)(A) of such title by such num-  
13                  ber of decibels as the Commission specifies  
14                  in such rule.”.

